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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/254,521 03/08/99 HIGGS V 2390-1-001

DAVID A JACKSON
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

MM42/0105

EXAMINER

PHAM, H

ART UNIT

PAPER NUMBER

2877

DATE MAILED:

01/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/254,521

Applicant(s)
Higgs et al.

Examiner
Hoa Q. Pham

Group Art Unit
2877



☒ Responsive to communication(s) filed on Mar 8, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings filed on 3/8/99 are objected to as indicated on attached PTO-948.

Specification

3. The abstract which appears on the page of the PCT Gazette of published international application number WO98/11425 will be used as the abstract for this application.
4. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-References to Related Applications.
- © Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.

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- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (I) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.
- (l) Sequence Listing (see 37 CFR 1.821-1.825).

With respect to this application, the “**headings**” above should be inserted into the specification.

5. The disclosure is objected to because of the following informalities:

Page 5, the term “R₁” has not been defined. This is an example, applicant is required to correct all of the minor informalities such as typos, grammars, inconsistent use of terms (and/or numerals).

Claim Rejections - 35 USC § 112

6. Claims 1, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 1 line 6 is not clear, what “image” does applicant means here?
- b. Claim 9 is not clear what frequency does applicant means here?
- c. Claim 10 line 2, the terms “may be” do not provide a positive limitation.

Claim Rejections - 35 USC § 103

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (of record) (2300 Journal of Crystal Growth) in view of Fairand et al (4,246,793).

Moore teaches a high intensity light has a power density in the order of 10^2 W/cm^2 . Moore does not explicitly teach that the high intensity light has a power density in the range between 10^4 to 10^9 W/cm^2 . However, such a feature is known in the art as taught by Fairand et al. Fairand et al discloses a nondestructive testing in which the light source has a power density of $2 \times 10^7 \text{ W/cm}^2$ (column 5 lines 22-45). Those of ordinary skill in the art at the time the invention was made to use the power density of Moore between 10^4 to 10^9 W/cm^2 as taught by Fairand et al. The rationale for this modification would have arisen from the fact that using such high power density would provide an accuracy when a high temperature material is detected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Hoa Pham whose telephone number is (703) 308-4808. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Pham/hp

December 29, 1999



Hoa Q. Pham
Primary Examiner